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Federal Communications Commission
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Local Competition and Broadband Reporting) CC Docket No. 99-301

**COMMENTS OF THE ASSOCIATION
FOR LOCAL TELECOMMUNICATIONS SERVICES**

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December 3, 1999

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SUMMARY

Although ALTS has concerns about the Commission's proposal to make individual company information public and we have some relatively minor suggested changes to the current information collection proposal, ALTS generally supports the Commission's proposal to collect information on local competition & broadband deployment. It is important that the Commission collect from all carriers information that is based on the same definitions and assumptions so that reports are comparable across reporting companies and geographic areas. Only by doing that can the Commission and other policy makers base their decisions on as complete and accurate a picture as possible.

Although it is clear the Commission has taken pains to minimize the burdens and costs incurred by information collection, the proposed form still requires a significant amount of information and the Commission should not underestimate the resources that will be necessary to accurately and completely respond to the proposed questionnaire. There undoubtedly will be some data sought that is not kept in the normal course of business by some carrier, or at least not in the form as requested. After submission of the initial set of forms the Commission should review the carriers' experiences and make modifications if necessary.

Finally, ALTS is pleased that the Commission has recognized the desirability of a federal reporting requirement that could replace or eliminate similar reporting requirements by the states. The Commission should be aware, however, that its actions may spur the states to impose even greater reporting requirements on carriers or to impose other requirements on competitive carriers that have not, to date, been actively regulated. Therefore, it is critical that the Commission encourage the staff to work toward adopting a federal report that is easily used by, and satisfies the legitimate needs of, the states.

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**Comments of the Association for
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The Association for Local Telecommunications Services (“ALTS”), pursuant to the Notice of Proposed Rulemaking in this docket (FCC 99-283) released October 22, 1999, hereby submits its initial comments on the Commission’s proposals relating to reporting by carriers on the status of local competition and the deployment of advanced telecommunications capability.

I. INTRODUCTION

On several occasions ALTS has submitted comments supporting the Commission’s initiatives to collect timely and accurate information on the status of local competition and the deployment of broadband services.¹ Although we have concerns about the Commission’s proposal to make individual company information public and we have some relatively minor suggested changes to the current information collection proposal, ALTS again generally supports the Commission. It is important that the Commission collect from all carriers² information that

¹ See Comments and Reply Comments submitted in CC Docket 91-141, CCB-IAD 98-101 (submitted May 1, 1998, and June 22, 1998) (These comments specifically advocated that the Commission broaden the scope of its information collection to include some of the broadband deployment information that the Commission now seeks to obtain); Comments and Reply Comments in CCB-IAD 95-110 (submitted Dec. 11, 1995 and January 16, 1996).

² As noted below, ALTS supports the Commission’s proposal to exempt smaller carriers.

is based on the same definitions and assumptions so that reports are comparable across reporting companies and geographic areas. Only by doing that can the Commission and other policy makers base their decisions on as complete and accurate a picture as possible.

The Commission's current proposal seeks to balance the needs of the Commission to receive timely and reliable information about the extent of developing local competition and the availability of advanced telecommunications services and the interest of the carriers (and ultimately the end users) in minimizing the burdens and costs incurred by information collection. However, the proposed form still requires a significant amount of information and the Commission should not underestimate the resources that will be necessary to accurately and completely respond to the proposed questionnaire. There undoubtedly will be some data sought that is not kept in the normal course of business by some carrier, or at least not in the form as requested. After submission of the initial set of forms the Commission should review the carriers' experiences and make modifications if necessary.

ALTS is pleased that the Commission has recognized the desirability of a federal reporting requirement that could replace or eliminate many similar reporting requirements by the states. It does not appear that states and the FCC have any differing interests in the collection of information on the deployment of advanced services and the development of local competition. The Commission's direction to the staff to work closely with state staff in its effort to adopt reporting requirements may help to ensure that carriers are not burdened with duplicative reporting requirements. The Commission should be aware, however, that its actions may spur the states to impose even greater reporting requirements on carriers or to impose other requirements on competitive carriers that have not, to date, been actively regulated. The Commission should be aware of this potential impact of its actions and encourage the staff not

only to work towards adopting a federal report that is easily used by, and satisfies the legitimate needs of, the states, but also to continue a dialogue with the states on all new requirements sought to be imposed on any carrier.

II. ENTITIES THAT MUST REPORT

The Commission has proposed that local exchange carriers (i.e., incumbent local exchange carriers and their wireline and fixed wireless telephony competitors)³ with 50,000 or more local access lines or channels (of any capacity) nationwide, or 50,000 or more subscribers nationwide and any entity that provides at least 1,000 full broadband service lines or has at least 1,000 full broadband subscribers be required to complete all the parts of the survey relevant to its company.⁴ Thus, LECs that have fewer than 50,000 access lines nationwide are exempted from filing the report unless they provide 1,000 full broadband service lines, in which case they must answer all portions of the form relevant to their business, including those portions relevant to local, non-broadband services. With respect to the “entities” that provide 1,000 full broadband service lines, the Commission states that “actual or potential providers of broadband services may include: LECs . . . cable television companies,⁵ utilities, MMDS/MDS/”wireless cable”

³ In addition, mobile wireless telephony providers (Cellular, PCS and other mobile telephony providers) with more than 50,000 subscribers nationwide must give information on the number of subscribers.

⁴ The Commission defines “full broadband” service as “information carrying capacity over 200 Kbps capacity in each direction, simultaneously.” Because entities that are required to file reports must answer all the relevant questions on the form, a carrier with 1,200 full broadband service lines but fewer than 50,000 voice grade lines would be required to include the information on its voice grade lines in the report.

⁵ The Commission states that “[s]ome broadband facilities and services may not be ‘telecommunications’ within the precise term of the Communications Act of 1934, as amended,

carriers, mobile wireless carriers (both terrestrial and satellite based), fixed wireless providers, and others.”⁶

We are pleased that the Commission has recognized that the benefit from collecting information from very small entities on a regular basis is outweighed by the burdens and the costs that would be incurred by the smaller entities. While one could quibble about whether 50,000 lines is the appropriate cut-off and some companies clearly would seek a slightly higher or a slightly lower cut-off, at least as an initial determination 50,000 is reasonable.⁷ The Commission should not be overly concerned whether 50,000 or 40,000 or 60,000 is the correct number as it can easily change that determination in the future and, in any given circumstance, the Commission can always seek additional information from the relevant carrier(s).

The Commission does not give any justification for requiring entities that provide as few

but may as a practical matter be competitive with broadband telecommunications. One such service is broadband provided over cable television systems. We do not decide whether cable-based broadband is ‘telecommunications,’ but we include it within the scope of our questions because it competes directly with services that are telecommunications.” This has raised the question about the reporting of other non-telecommunications services, like enhanced services or information services that might arguably be competitive in some way with telecommunications services.

⁶ The Commission has indicated an intention to cast a wide net with respect to the broadband reporting. Yet it is unclear exactly what entities must report. If entities make their own decisions whether or not to report certain broadband offerings, the Commission will receive inconsistent or incomplete information. For example, with respect to the broadband reporting, it appears that the Commission does not seek any information on “private” broadband networks, i.e., those that do not connect an end user either to the public switched telephone network or to some other public network like the Internet. It does not appear that the Commission would need information on private networks and it should clarify this point.

⁷ The Commission estimates that approximately 15 CLECs would be required to file the periodic reports. ALTS believes that the number will be slightly higher than that (and certainly expects that the number will be growing); it is clear that such a cut-off will ensure the receipt of information on the vast majority of CLEC provided lines.

as 1,000 full broadband service lines or has at least 1,000 full broadband subscribers to file the reports. It makes some sense to have a cut-off different than the cut off for voice grade lines because of the difference in capacity. In addition, the Commission may be seeking more detailed information on broadband deployment because of the statutory obligations that it has pursuant to Section 706 of the Telecommunications Act of 1996. Nonetheless, it appears that a requirement that all entities that provide full broadband to as few as 1000 subscribers nationwide may require reporting from some fairly small entities. The Commission should consider changing the threshold to 2,000 or even 5,000 full broadband service lines in the nation.

With respect to the entities that must file, ALTS suggests that the Commission include the relevant information on the form itself. The proposed form attached to the NPRM has no information on the entities that will be required to file, nor on the portions of the form that should be completed by reporting entities. Even if the Commission is very clear in the Report and Order adopting a form who must file and what sections should be completed, it would make more sense to also include that information on the form as the persons responsible for completing the form may not always have easy access to the Report and Order.

III. FREQUENCY OF REPORTS

The Commission asks whether reports should be filed quarterly, semi-annually or annually. ALTS believes that an annual or semi-annual reporting is sufficient to satisfy the needs of the Commission and any more frequent reporting would simply add a burden to the carriers without any substantial added benefit to the Commission's mission. The members of ALTS certainly hope that the competitive provision of service grows at such a rate in the future that more frequent reporting would give the Commission a much more accurate picture of the

pace of competition, but we are not there yet.

Annual or semi-annual reporting would also be more in line with the “pro-competitive and deregulatory national policy framework” envisioned by Congress in passing the Telecommunications Act of 1996 and the congressional limitation of ARMIS reporting to once a year. Many of the entities that will be required to file these reports are not actively regulated by the Commission and it would be inconsistent with the Commission’s repeated intentions over the past few years to streamline all reporting requirements. It is also far easier to increase the number of reports than to decrease them should it become evident to the Commission and carriers that annual or semi-annual reporting is insufficient to satisfy the Commission’s needs. Reports from all carriers (whether based upon their access lines or “full broadband” lines) should be on the same schedule.

It is not clear from the NPRM what period of time after the reporting period carriers would have to file the reports. The Commission should adopt a reasonable time period for the filing of the reports. ALTS suggests that reports should be due to the Commission 45 days after the end of the reporting period. If the reporting period is for January through June and from July through December of each year, we suggest that reports be due August 15 and February 15 of each year.

IV. DEFINITION OF REPORTING AREA

ALTS has previously and again supports the Commission’s tentative conclusion that data should be reported state by state. As the Commission noted, even though newer carriers tend not to offer services in the same geographic areas as established carriers, all carriers presumably maintain basic information on a state-by state basis for a variety of tax, regulatory, and other

purposes. In addition, of course, collecting information on a state by state basis is more likely to result in the federal collection of information satisfying the needs of the states and result in less duplication of efforts between the states and the Commission.⁸ Again, should the Commission need more detailed information on a particular MSA or other smaller geographic area, it could separately ask for that information at the time. However, there is no need as a general matter to require the filing of more geographically specific information on a regular basis.

V. DATA TO BE REPORTED

The draft form that the Commission has appended to the NPRM seeks some of the same information that was developed for the Common Carrier Bureau's voluntary survey on the state of local competition. The Common Carrier Bureau has sought responses to the survey five times in the past two years and has made some changes and edits to the form to attempt to make it clearer and more focused in light of questions raised and comments received. Hopefully, the comments submitted in this proceeding will catch most of the remaining ambiguities and definitional questions and issues.⁹

But the Commission must realize that not all carriers that will be required to file will

⁸ ALTS argues below that the Commission should not release data on individual competitive carriers. Rather, the Commission should only release aggregate data. If, however, the Commission does not accept ALTS' proposal relating to the dissemination of information on individual carriers, it should recognize that the more geographically disaggregated the information, the more likely it will be that carriers will request confidential treatment of that information.

⁹ The form appended to the NPRM generally seeks more detailed information on voice grade switched lines than the previous form that was released for public comment in May of 1998, but seeks less information in other areas such as the total local switched minutes and private lines. ALTS generally agrees with the deletions that have been made.

have fully reviewed the form prior to its adoption. It must also recognize that any time it attempts to use one form for reporting of information from so many different types of companies, there will continue to be questions raised and refinements may have to be made. It may be useful for the Commission to sponsor a question and answer forum for interested carriers a month or two prior to the first submission date. ALTS would stand ready to help the Commission should it endeavor to sponsor such a forum.

A. Voice Grade Lines

The first two sections of the proposed form seek data on voice grade lines in service at the end of the reporting period. Section 1.A lists the voice grade lines used to provide service to end users (i.e., when the reporting carrier is the retail provider).¹⁰ These would be broken down into lines owned and lines leased by the reporting carrier. Lines would be further broken down into residential switched, non-residential switched, and special access lines. The footnotes to this section explain that the reporting entity should include “all lines and channels that connect directly to an end user premises at one end and, at the other end (directly or indirectly) to a carrier switch or to a network that carries traffic to the public switched telephone network.”¹¹ Excluded are “private lines that connect one customer location directly to another” and

¹⁰ There is no definition of “end user” contained in the NPRM or in the text of the reporting form. This may raise questions as to how to report certain lines. For example would a T1 to a Shared Tenant Service provider count as a T1 to a carrier or 24 individual lines?

¹¹ The “public switched telephone network” is defined quite broadly in the NPRM: “‘public switched telephone network’ includes the traditional circuit-switched telephone network as well as all alternatives to the wireline infrastructure, regardless of switching technology . . . those networks that enable a telephone subscriber to place a call to any other telephone subscriber are included.” However, the Commission has not included that definition in the footnotes to the form. Especially in light of the breadth of the definition and the speed with which changes are occurring in telecommunications networks, the Commission should include the definition of “public switched network” in the form itself.

“interoffice trunking.”

In Section 1.B. local exchange carriers would report the number of voice grade lines that they provide to other carriers, who in turn provide voice grade switched service to end users. Thus, as distinguished from Section 1.A., Section 1.B relates to those instances in which the carrier provides facilities but is not the retail provider. In Section 1.B. carriers would report on 1) the number of lines owned by them and provided to other carriers for resale and 2) the number of UNE loops that the local exchange carrier leased or owned and provides to other carrier.

Section II of the survey also seeks to collect information about numbers of voice grade lines served from LEC switching centers in which local service competitors have operational collocation arrangements. This information would be reported in two categories: (1) lines served from switching centers in which at least one competing communications carrier has an operational collocation and (2) lines served from switching centers in which no competing carrier has an operational collocation arrangement. Within each of these two categories, as with the information in Section 1, the reporting carrier would separately report total residential switched lines, nonresidential switched lines and special access lines and UNE loops. ALTS agrees with the Commission that it is important to collect information on the availability of collocation arrangements. The Commission should consider adding one additional question on collocation about the number of outstanding requests (those requests pending for more than ninety days) for which collocation has not been provided.

B. High Capacity Lines

Section III of the report seeks information on high capacity lines in service to end users by LECs. For the purpose of the reporting form a “high capacity line” is defined as “a line with information carrying capability to the customer’s premises of 200 Kbps in at least one direction,

and at least 48 Kbps in the other direction.” Thus “high capacity lines” are either “full broadband” or “one-way broadband” lines.¹² As noted below, Sections IV and V seek detailed information about the number of “One-Way” and “Full Broadband” lines and channels. The information on the numbers of lines requested in Section III of the report will, therefore, necessarily also be provided in Sections IV and V.

While Section III requests carriers to submit information on the number of end users served by lines the carrier owns, end users served by lines that the carrier leases from other carriers, and the lines in service to end users that the reporting carrier provides to other carriers, we note that Sections IV and V seek information based on whether the facilities are owned or leased (“resold” is the term used in the form). Although the information provided in Section III will, therefore, be gathered in a slightly different form than in Section III, it is not immediately apparent why the Commission should collect what is nearly the same information in two different portions of the reporting form.¹³

C. Broadband Lines in Service to Consumers

As noted above, each entity (not just LECs) that provides at least 1,000 full broadband service lines or has at least 1,000 full broadband subscribers would be required to file the report. Section IV seeks information on both full and one-way broadband lines in service to all

¹² “One-way broadband” can have as little as zero bandwidth in its slower direction, and thus is distinguishable from “high capacity” lines.

¹³ The Commission also asks whether it should undertake a more specific determination of the extent to which the Internet is being used to provide telephone services and how we should do that. ALTS takes no position on the desirability of collecting such information but notes that most carriers have no way of knowing or even monitoring how their end users employ their services. Therefore, in this reporting requirement, which is really geared toward information on facilities and the services provided over them, rather than the use that the end user makes of those facilities and services, it would be inappropriate to try to obtain such information.

customers and Section V collects the exact same information on broadband lines in service to residential customers. The information is also broken down into services provided over the reporting entity's own facilities and over resold facilities.¹⁴ In the form reporting carriers will be required to break down the number of lines in service by the technology used in the local loop, e.g., whether copper-based DS1/DS3, xDSL, coaxial, fixed wireless, or satellite. Therefore, for most reporting entities there will be only a few parts of Sections IV and V to complete.

Finally, the Commission specifically asks whether it should be asking about other speeds of transmission in its report. At this time, the Commission should not consider expanding the form. This is another instance in which the Commission should seek more limited information initially and expand the information gathering in the future if that becomes necessary. Again, it is always easier to expand a questionnaire like this than it is to delete something once it has been adopted.

VI. CONFIDENTIALITY OF DATA

In the NPRM, the Commission tentatively concluded that all information submitted pursuant to this information collection program should be publicly released. The Commission made the tentative conclusion based upon its belief that it is "extremely important that all local competition and broadband information collected pursuant to the proposed survey be made available to the public. The Commission was aware, however, that its tentative decision would

¹⁴ We note that there is no definition of "resold facilities" in the form. A definition should be provided. Does it include only lines fully resold, or lines that include UNEs?

probably be opposed by some parties and recognized that parties who believe that the information is sensitive or protectable may assert confidentiality and seek protection from public release.

The information sought by the Commission could be quite damaging when a new carrier has just entered a market and information about the number of lines or customers is released to competitors or the public. Release of such line information could hurt CLECs but, presumably, would have no effect on ILECs. Everyone knows that ILECs have the vast majority of lines in any one area. In the NPRM the Commission recognized that information collected in “smaller” geographic areas may raise issues as to the confidential (and sensitive nature) of the information. But the fact of the matter is that many CLECs only offer service in a few geographic areas of a state. Therefore, the fact that the Commission may only be gathering information on a statewide basis does not necessarily negate the concern that carriers would have with the potential release of the material.

For these reasons the Commission should release all the information, but in an aggregated form. This should satisfy all needs. The Commission would have the raw data, but the public would only find out, for example, there are six large CLECs operating in a particular state and the total number of lines is 75,000. This should not be a particularly difficult task for the Commission as it would only entail the aggregation of information. This should be a relatively simple ministerial job.

VII. METHOD OF FILING

The Commission proposes to require all completed surveys to be submitted (through e-mail) in the form of electronic spreadsheets in Excel format. The spreadsheets would be posted

at a unique location within the Bureau's section of the Commission's Internet site. ALTS believes that it is entirely appropriate that the Commission should require that the surveys be submitted in the form of electronic spreadsheets in the Excel format. Presumably, any carrier of sufficient size to be required to file the report would have the resources to file in this manner with no problem. Obviously, however, if the Commission adopts the ALTS suggestion to aggregate information, it should not put the completed surveys on the Commission's website.

VIII. SURVEY MODIFICATION AND TERMINATION

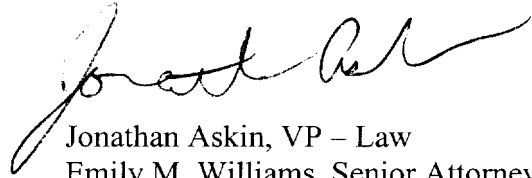
We expect, as does the Commission that local services and broadband services markets will become increasingly dynamic and that, as the industry changes, the information needs of the Commission likewise will change. Therefore, it is important that the Commission at all times be open to adding or deleting information from the reporting form. While it is important to periodically review the need for any form, we think the Commission should realize that it may be necessary to refine and modify the form as experience dictates.

CONCLUSION

For the foregoing reasons, ALTS generally supports the Commission in its desire to collect accurate information on the presence of competition in the local exchange market and on the availability of advanced telecommunications capability. The Commission should, however, take the steps outlined above to make the reporting requirements clearer and a less burdensome

on carriers and to protect the information supplied by CLECs from public disclosure.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jonathan Askin', written in a cursive style.

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December 3, 1999

Certificate of Service

I hereby certify that on this 3rd day of December, 1999, copies of the foregoing Comments of the Association for Local Telecommunications Services were served via first class mail, postage prepaid, or by hand, to the parties listed below.



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